

MINUTES
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
June 22, 2015 at 6:00 P.M.

PLEDGE OF ALLEGIANCE – A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Jeff Valiant, Chairman, Doris Horn, Mike Moesner, Tina Baxter, Mike Winge, Jeff Willis, and Terry Dayvolt.

Also present were Morrie Doll, Attorney, and Sherri Rector, Executive Director, and Molly MacGregor, staff.

MEMBERS ABSENT: None

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion made by Mike Winge and seconded by Doris Horn, the Minutes of the last regular session held March 23, 2015 and for no meetings April and May were approved as circulated.

VARIANCE:
BZA-V-15-08

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APPLICANT/OWNER: Doris A. Stone

PREMISES: Property located on the S side of Stone Rd. Approximately .6 miles E of the intersection formed by Stone Rd. and SR 161. Pigeon Twp. Parcel 2 in Stone Road Minor Subdivision. *Complete legal on file*

NATURE OF CASE: Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a single family dwelling on a lot with an existing single family dwelling to be removed in an “A” Agriculture Zoning District.

Doris Stone was present.

The Chairman called for a staff report.

Mrs. Rector said we have all returned receipts and the existing land use is a single family dwelling. She said the surrounding zoning and land use to the north, south, east, and west are Agriculture. She said all surrounding property is vacant. She said there is no flood plain and a little in the surrounding properties. Mrs. Rector said there is an existing entrance off of Stone Road and the County Engineer did not feel any upgrades were required at the new site. She said

that the applicant requests a variance to construct a 1602 square foot residential house on the same lot as the existing house with demolition of the existing house to follow. She said the construction of the new house will take approximately 5 months to complete. She added that after the new house is completed, the existing house will be removed within 90 days.

The Chairman asked if Mrs. Stone had anything to add.

Mike Winge asked who was removing the old house.

Mrs. Stone said her contractor is.

The Chairman asked for any questions from the Board. Being none he asked for any remonstrators for or against this project. Being none called for a motion.

I Mike Moesner made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the existing residence does not meet building codes.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.

7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an improvement location permit being obtained
 - b) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - c) Subject to all utility easement and facilities in place.
 - d.) Subject to any required building permit
 - e.) Subject to existing residence being removed within 90 days of certificate of occupancy being issued.
 - f.) Applicant must notify office when Certificate of Occupancy has been issued.

The motion was seconded by Doris Horn and unanimously carried.

Mrs. Rector told Mrs. Stone that we would have her approval done by Wednesday and she could come in and get her permits for her new home then. She said to make sure and bring water, and sewer permits and we will help with everything else.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS: None

OTHER BUSINESS:

Sherri Rector gave a report on 7166 St. Johns Road. She said that the house was to be removed within 6 months of issuance of the Certificate of Occupancy (issued 6/19/2014). Mrs. Rector said Rhonda Riecken is here and this is her In-Laws house. She said she originally gave them additional time because of the weather and then added that they came back in March and the Board gave them 60 more days, which would have been the end of May, but we didn't have a meeting. She said Dennis Lockhart, the inspector, took pictures Friday and you can see the house is knocked down but all the debris from the house is still on the ground. She told her she needed

to come tonight for the Board to tell her when to have this cleaned up because it has been a year now.

The Chairman asked for Rhonda Riecken to step to the podium, sign in, and state her name.

Mike Winge asked her who was doing the cleaning up on this project.

Rhonda Riecken replied Riecken Construction, which is her husband.

Mike Winge also asked how he is going about cleaning this up because it does not look like that big of a house.

Rhonda Riecken replied it was a two-story house with a basement, and the basement filled up with water again on Friday.

Mike Winge asked if the basement is plumb full and level with this debris.

Rhonda Riecken said no the basement is empty. She said her husband's Father is 86, his Mother is 82, he has a sister that lives at home who is in her 50's and has health problems so it took them longer than expected to get their stuff out of the house. She said they lived there for over fifty years and they were not willing to throw anything away. She said when we took the house down they wanted the windows, the cabinets, and everything. She said they tried to put it wherever they could find room. She said they got it down in one day. She said we got the roof off, and got rid of it. She said they have a dumpster right next door because she lives there. She said their properties are adjacent and they have a dumpster they use for their construction business and they are trying to save them money. She said her husband is working evenings, putting debris in there, and trying to get rid of it. She added that he hauled off all the roofing and the siding. She said that they are doing what we can, but realizes that it's not going well. She said he had the guys working Friday afternoon until it started raining and planned to be there Saturday and Sunday, but he had so many calls with basements needing dried out and walls collapsed. She said he is not getting any support or help from his brothers, and he has two that don't work, but won't help. She said they are on their own, but they did not want them to have to pay. She said they checked and it costs \$6,000-\$6,800 to have someone come out and do this.

Mike Winge said it would not be that much to have a dumpster set there. He said one of the large ones is only \$400, \$500, \$600 plus dumping to get rid of the whole thing.

Rhonda Riecken said yes, they pay right around a \$100 a month and have been filling it up, recycling all the wiring, and everything and it takes time to strip all that.

Mike Winge said the dumpster must be really small and it will take a long time to get rid of all the debris if they use that process.

Rhonda Riecken agreed and added that they have a dump trailer and have filled it up a couple of times as well.

Mike Winge continued to ask why they wouldn't just get one large dumpster out there to get rid of all the debris at once.

Rhonda Riecken said that she doesn't know, and is just trying to save them money.

Mike Winge asked where the closest neighbors are.

Rhonda Riecken said that she is sitting right on their driveway. She said her property runs through and that no one has ever complained. She said John Moore lives on the other side and has his own stuff sitting outside. She said they also have their own stuff sitting out outside, and the other neighbors have their own stuff sitting out as well. She said it's rural that is the way they live out there.

Doris Horn asked when they actually tore the house and roof down.

Rhonda Riecken said May 23rd was the day they all worked and took it to the ground.

Doris Horn said it has been a little over a month.

The conversation ensued.

Sherri Rector said that Mrs. Riecken called the office the first time on the 14th or 19th of December requesting more time. She said she gave her 60 more days because of her in-laws age and they were having trouble getting stuff out. She said after that she came in front of The Board in March and they have given her two more months.

Rhonda Riecken said they were not able to work because of the winter.

Mike Winge said the only issue here is that even in the winter they are still working. He said that they have an outside construction business and it should not be that big of deal.

Rhonda Riecken replied that they are the ones doing it but her husband is doing it more as their son rather than his company. She said that they built the house and he rarely has other guys working with him. She said they did come and help clean up on Friday. She said because of the money involved he doesn't want to use his employees. She said that her husband is working nights and weekends to get this done.

Mrs. Rector said that it may not be her place to say it, but as the Board knows, we take people to court for less than this and that is why she told her she needed to come to the meeting tonight.

Mike Winge said the issue he sees with this is that they are ignoring time limits. He said if we let this go again, then how much longer is it going to be before it goes again. He said there is a lot of debris on the property.

Rhonda Riecken said her husband understands and needs to get the crew on it.

Mike Winge also said he has a problem with there being an open basement with nothing in it.

Rhonda Riecken replied that there is just water in the basement and her husband pumped it all out over the weekend.

Mike Winge said that a person can fall into the basement.

Jeff Valiant said a child could easily fall in and drown.

Mike Winge said he had a question to the Board... He asked if that thing fills up with water and somebody drowns and we told them they needed to have it cleaned up where are we at in this situation.

Rhonda Riecken said he pumped the water out as soon as the water was in there, and it wasn't exposed until Friday... She added that the first level floor was still there until Friday. She said Friday was the first day they started tearing out and that's why he had to have help to get the main floor off of there and then they had a water line they were having trouble locating where the water came into the house.

Doris Horn said the problem is, if we let this go on how can we justify taking someone else to court that has less than this in their yard. She said this has been dragging on for a long time.

Mike Winge said that he has been in construction for over forty years and he is very familiar with it. He said there is no reason why he cannot get a large dumpster out there for \$400-\$500 and get a backhoe or small tractor out there for less than a \$1,000 and have that whole mess cleaned up.

Rhonda Riecken said ok.

Mike Winge said it shouldn't be that big of a deal and he feels like this situation is being taken advantage of.

Rhonda Riecken said she believes that her husband is just trying to save his parents some money. She said they paid more than expected on the house and it's just been a hardship on them all around.

Terry Dayvolt said if he doesn't get it cleaned up he is going to spend a lot more money.

Rhonda Riecken said she understood and that she has told her husband and she thinks he understands, but he is just doing everything he can right now.

Terry Dayvolt said he understands his problem. He said that Jeff and he were just talking about watching dirt dry, so he can get to work. He said we understand you're behind but there becomes a time when enough is enough.

Mike Winge said he doesn't see a problem with the surrounding ground. He said it is solid.

Terry Dayvolt said that the liability is an issue. He said the water is not the only problem; he had a friend that broke his neck from falling 8 feet and passed away. He said he has a problem with that and the fact that we have given you guys a year.

Rhonda Riecken said they have not been taking it down for a year.

Terry Dayvolt said they gave them a year.

Rhonda Riecken said yes, and that she apologized for that. She said the Board has been very generous with that. She said that his parents did not understand the urgency for getting everything out and into a new house. She added that her father in law has dementia and...

Terry Dayvolt said that it would be a different story, but we gave you a year in the beginning and this is the third time now that you have been back.

Mike Winge said that this should only take one or two days to do.

Rhonda Riecken continued with reasons why it had not been cleaned up. She asked for 30 more days or the end of the month to get it done.

Mike Winge said no, and that he believes that he should have one week from today and that they can get a dumpster. He said that he has ignored this Boards time line time and time again. He added that he knows many contractors that go in and take a house down in one day with just a backhoe.

Rhonda Riecken said that they have the equipment, and the time is the issue.

Mike Winge made a motion that they have one week to get it cleaned up and then the inspector will go take pictures to make sure it has been cleaned up.

Terry Dayvolt seconded the motion.

Attorney Doll asked what if it doesn't happen, what is the second part of the motion.

Mike Winge asked what comes after that.

Attorney Doll replied that under title 32, section 4, if a person violates a provision of the Warrick County Comprehensive Zoning Ordinance; they may be guilty of a misdemeanor and may be fined in an amount of not more than \$300.00 per day until they come into compliance with the statute. He said a ten day window is \$3,000.00 and that is what our courts are doing. He added that it becomes a lien against the property and clouds the title until it is paid to the County. He said our Judges are enforcing this. He said that basically they realize by the time they get to the courts we've talked to, tried to cajole, everything we can to get it done without having to do that. He said when we get there they are pretty adamant about it being done and if it doesn't get cleaned up, besides the fine, what they're doing is ordering the County Highway Dept. to bring

their equipment to the property to clean it up and keep track of the time, the hours and the expenses and then they will place a judicial judgement lien against the property, as well. He said that her mother and father in law are 80 years old and he is sure that Mrs. Riecken does not want this being taken to court.

Rhonda Riecken said 86 and 82 years old and she does not.

Attorney Doll said that's the next step if it doesn't get cleaned up. He said that's the only remedy the County has. He said don't put them through that.

Rhonda Riecken said she understands, but is there any way they could at least get two weeks.

Mike Winge said no, 1 week.

Mrs. Rector said he has already made the motion so they will have to vote.

Attorney Doll said and it has been seconded. So it's not subject to ifs.

Rhonda Riecken said she needs a date and a time.

Attorney Doll said well today is the 22nd plus 7 days is the 29th.

Rhonda Riecken said so you are counting today's date.

Attorney Doll said no, 7 days on top of today is the 29th. He said tomorrow is the first day...23rd 24th 25th...26th 27th 28th 29th...

Rhonda Riecken said so next Monday or Tuesday.

The Chairman said June 29th which will be next Monday. That is 7 days from today.

Attorney Doll said the inspector will be on the property on June 30 to see if it's done...right Sherri.

Sherri Rector said yes.

Rhonda Riecken said and what do you...She said her understanding is that the house needed to be down and not livable. She said the house is down; no one can live in it! She said she does not remember hearing anything... or that it had to be cleaned...

Morrie Doll said no, this is not going to fly. You can't just knock it down and leave a stack of trash. He said it is terrible.

Sherri Rector said your approval, or your In-laws, is subject to the existing house being REMOVED from the property.

Rhonda Riecken said ok, alright... What is it that you exactly you expect to be there... She asks if grass is expected to be growing in that spot or...

Mike Winge said no trash, no debris.

Attorney Doll said that the basement needs to be filled in as well.

Rhonda Riecken said to be filled in... Alright.

Jeff Willis said that will be probably the hardest part.

Rhonda Riecken said that they have dirt. She said they have another property right down the road that we have dirt on and could use.

Mike Winge said that her husband just needs to stop what he is doing now and get this done because it has been ignored time and time again.

The Chairman said there is a motion on the floor and a second.

The motion was approved by Tina Baxter, Terry Dayvolt, Doris Horn, Mike Moesner, Jeff Willis, and Mike Winge. The motion was opposed by Jeff Valiant and carried.

Rhonda Riecken asked that if it's not done there is going to be a fine or you are just going to send somebody out there the next day.

Morrie Doll said no it would go to court.

Rhonda Riecken said ok and asked if she will be sent any papers.

Sherri Rector said yes.

Rhonda Riecken said she was just checking.

Sherri Rector said your in-laws will and they will have to be the ones that appear in court because they are the owners.

Rhonda Riecken said if they have it down by Tuesday, they are good.

The Chairman said the house needs to be down and cleaned up.

Mike Winge and Doris Horn added that the basement also needs filled in.

Rhonda Riecken said ok, thank you.

The Chairman asked for any other business.

Sherri Rector said no.

The Chairman called for a motion to end the meeting.

Terry Dayvolt made a motion to dismiss. The motion was seconded by Mike Winge and was unanimously carried.

Being no other business the meeting adjourned at 6:26 p.m.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held June 22, 2015.

Sherri Rector, Executive Director